

No. 81636-1

FAIRHURST, J. (concurrence in dissent) — I agree with the majority on one issue and the dissent on the second issue. Ultimately, I concur with the dissent in the result.

I agree with the majority that the legislature did not intend the Manufactured/Mobile Home Landlord-Tenant Act (MHLTA), chapter 59.20 RCW, to preempt the field of mobile home tenancy regulation. The MHLTA’s references to local ordinances¹ demonstrate that cities enjoy concurrent jurisdiction with the State.

However, I agree with the dissent that former Pasco Municipal Code 25.40.060 (2005), which bans recreational vehicles (RVs) from mobile home parks and forces Paul Lawson to evict his tenants, conflicts with the MHLTA. The majority strains to harmonize the two laws, arguing that the MHLTA does not confer a right to site RVs in mobile home parks but merely “regulates recreational vehicle tenancies, where such tenancies exist.” Majority at 12. However, the

¹RCW 59.20.080(1)(d), (i).

MHLTA permits Lawson to choose whether or not to rent space to persons permanently residing in RVs. Pasco therefore prohibits what the MHLTA permits. In addition, the MHLTA's reference to "park models"² reveals a legislative assumption that certain RV tenancies exist and will continue to exist in mobile home parks. If cities were to ban all such tenancies, they would thwart legislative intent to regulate them. Pasco's ordinance therefore directly and irreconcilably conflicts with the MHLTA.

²A "park model" is an RV that is "intended for permanent or semi-permanent installation and . . . used as a primary residence." RCW 59.20.030(14).

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AUTHOR:

Justice Mary E. Fairhurst

WE CONCUR:
